

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:10-CR-53-1
)	(VARLAN/SHIRLEY)
RAYNARD DAVIS,)	
)	
Defendant.)	

ORDER

This criminal case is before the Court for consideration of the Report and Recommendation, entered by United States Magistrate Judge C. Clifford Shirley, Jr., on March 28, 2012 (the "R&R") [Doc. 395]. There have been no timely objections to the R&R and enough time has passed since the filing of the R&R to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Fed. R. Crim. P. 51. In the R&R, Magistrate Judge Shirley recommends that the defendant's Motion to File Notice of Appeal Nunc Pro Tunc to: May 10, 2011 [Doc. 385] be granted and the defendant's Notice of Appeal [Doc. 384] be filed *nunc pro tunc* to May 10, 2011; recommends that the defendant's Motion to Proceed In Forma Pauperis [Doc. 389] be granted and that the defendant be permitted to proceed on appeal without payment of fees or costs; and recommends that the defendant's *pro se* request [Doc. 388] for the appointment of counsel be denied as moot.

After a careful review of the R&R, the Court is in agreement with Magistrate Judge Shirley's recommendations, which the Court adopts and incorporates into its ruling. Thus, the Court **ACCEPTS IN WHOLE** the R&R [Doc. 395] and **GRANTS** the defendant's Motion to File Notice of Appeal Nunc Pro Tunc to: May 10, 2011 [Doc. 385]; **GRANTS** the defendant's Motion to Proceed In Forma Pauperis [Doc. 389], thus permitting the defendant to proceed on appeal without payment of fees or costs; and **DENIES as moot** the defendant's *pro se* request [Doc. 388] for the appointment of counsel. It is also **ORDERED** that the defendant's Notice of Appeal [Doc. 384] be filed *nunc pro tunc* to May 10, 2011.

IT IS SO ORDERED.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE